

Procedural Handbook
for
NAO 202-735D: Scientific Integrity

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Preface.

This Procedural Handbook provides the procedures NOAA will follow in responding to allegations of scientific and research misconduct by NOAA employees, NOAA contractors, and external recipients of NOAA financial assistance awards for scientific or research activities. This Procedural Handbook should be read in conjunction with NOAA's Scientific Integrity Policy in NOAA Administrative Order (NAO) 202-735D.

Section 1. Definitions.

01. As used in this Procedural Handbook, the terms below have the following meanings:

- a. **Complainant** is the person, group, or company that makes an allegation of scientific and research misconduct.
- b. **Determining Official (DO)** is the NOAA official who makes final determinations on allegations of scientific and research misconduct and proposes corrective administrative action, as appropriate. The DO is designated for a specific investigation. The DO will be at the level of Deputy Assistant Administrator or above and will not be the same individual as the Integrity Review Panel Chair. The DO should have no direct prior involvement in the agency's inquiry and investigation of the allegation and should not be in the Line Office chain of command for either the person making the allegation or the person alleged to be in violation. A DO's involvement in the appointment of individuals to any part of the process is not considered to be direct prior involvement.
- c. **Inquiry Team** is the team formed by the NOAA Scientific Integrity Officer (SIO) when an allegation of scientific and research misconduct warrants inquiry. The Inquiry Team is designated for a specific inquiry. The Inquiry Team makes recommendations to the NOAA Deputy Under Secretary for Operations (DUS/O) regarding next steps in the allegation process.

- 1 d. **Integrity Review Panel** is the group responsible for conducting an investigation of
2 alleged scientific and research misconduct when a determination has been made by
3 the DUS/O that an investigation is warranted; members are appointed by the NOAA
4 Deputy Under Secretary for Operations (DUS/O) and the SIO. The panel is chaired
5 by an Integrity Review Panel Chair.
- 6 e. **Integrity Review Panel Chair (IRPC)** is the agency official responsible for
7 overseeing an investigation, chairing the Integrity Review Panel, and carrying out
8 other responsibilities specified in this Procedural Handbook. The IRPC is a subject
9 matter expert and is designated for a specific investigation.
- 10 f. **NOAA Scientific Integrity Committee** is composed of NOAA Line Office
11 Scientific Integrity Officers and Staff Office Points of Contact and is responsible for
12 supporting the NOAA Scientific Integrity Officer in responding to allegations of
13 scientific and research misconduct, and promoting a culture of scientific integrity
14 throughout the agency. The objectives, scope, and an outline of the Committee and
15 member responsibilities are provided in the terms of reference for the Scientific
16 Integrity Committee¹.
- 17 g. **NOAA Scientific Integrity Officer (SIO)** is the agency official who oversees the
18 intake of allegations of scientific and research misconduct, and ensures that all stages
19 of the review process are independent, methodologically sound, and thorough in order
20 to sufficiently protect NOAA's scientific integrity. The SIO performs initial
21 assessment of allegations of misconduct and chairs the Inquiry Team, and performs
22 other responsibilities as specified in this Procedural Handbook.
- 23 h. **Respondent** is the person, group, or NOAA entity who responds or makes a reply to
24 an allegation of scientific and research misconduct.

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26 02. All terms not otherwise defined in this Procedural Handbook shall have the meanings
27 ascribed to them in NAO 202-735D.

28 Section 2. Scientific and Research Misconduct.

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31 01. A finding of scientific and research misconduct requires a determination by the NOAA SIO
32 and/or DO by a preponderance of the evidence on the record before him or her that the
33 person or entity has:

¹ NOAA Scientific Integrity Committee Terms of Reference are found on the NOAA Scientific Integrity Commons web page: <http://nrc.noaa.gov/sites/nrc/Documents/Scientific%20Integrity/Final%20approved%20-%20Spinrad-Devany.pdf>

- a. Significantly departed from the Code of Scientific Conduct or Code of Ethics for Science Supervision and Management set forth in NAO 202-735D; and
- b. Engaged in the misconduct intentionally, knowingly, or in reckless disregard of the Code of Scientific Conduct or Code of Ethics for Science Supervision and Management in NAO 202-735D.

02. Scientific and research misconduct does not include honest error or differences of opinion.

Section 3. Allegations of Scientific and Research Misconduct.

01. NOAA has the primary responsibility for all scientific and research activities conducted by its employees using agency resources. NOAA also has certain oversight and monitoring responsibilities pertaining to the implementation and administration of NOAA contracts and financial assistance awards for scientific and research activities.

02. Allegations of scientific and research misconduct against NOAA employees, contractors, and NOAA-funded research must be submitted within 90 calendar days of the discovery of the alleged misconduct. Allegations must be submitted in writing to:

- a. NOAA's Scientific Integrity Officer, via e mail to research.misconduct@noaa.gov, or,
- b. NOAA's Scientific Integrity Officer via the Office of the NOAA Deputy Under Secretary for Operations (DUS/O) at 14th & Constitution Avenue, NW, Washington, DC 20230.

03. Allegations may be submitted by individuals or entities, internal or external to NOAA, and should bear the name of the individual or entity making the allegations. Complainants who wish to remain anonymous should recognize that any inquiry and action on an anonymous allegation may be limited by the inability to obtain additional information from the Complainant that could be important to an inquiry or investigation.

04. The process for handling allegations of scientific and research misconduct is detailed in Sections 4 & 5 of this handbook.

05. Any publicity or media attention about an allegation or any other step specified in this Procedural Handbook will be handled by the NOAA SIO and DUS/O with assistance from the NOAA Office of Communications and External Affairs.

06. Allegations that have been previously resolved will not be reopened unless substantial new information is submitted, as determined by the NOAA SIO in consultation with the DUS/O.

Section 4. Review Process for Allegations of Misconduct against NOAA Employees.

01. General – NOAA will attempt to resolve each allegation of scientific and research misconduct as quickly as possible while also guaranteeing the completion of a full and fair investigation.

02. Assessment – The SIO is responsible for overseeing the agency’s process for responding to allegations of scientific and research misconduct.

a. Allegations are submitted through the DUS/O or directly to the SIO (as described in Section 3 of this handbook).

b. Within 30 calendar days of receiving an allegation, the SIO will assess the allegation of scientific and research misconduct to determine if the alleged misconduct falls within the definition of scientific and research misconduct in Section 8 of NAO 202-735D and warrants an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of scientific and research misconduct may be identified.

i. The SIO will consult with NOAA General Counsel and other members of the Scientific Integrity Committee, as appropriate, to assess individual allegations.

c. The SIO will communicate his or her assessment of the allegation to the DUS/O and to the Complainant.

d. Respondent notification of the allegation and the assessment is at the discretion of the SIO, with counsel from NOAA General Counsel on appropriate procedure, as determined on a case-by-case basis.

03. Inquiry - The purpose of the inquiry phase is to assess whether an allegation of scientific and research misconduct has substance, can be resolved with evidence and expertise collected by the Inquiry Team, or, if a more extensive investigation is warranted.

a. Timeline - Once the SIO determines under Section 4.02 that further evaluation of an allegation is required, he or she will appoint an Inquiry Team within 30 days. The Inquiry Team, once formed, has 90 days to collect and evaluate evidence, and prepare a final report to the DUS/O and the relevant Line Office Assistant Administrator, unless the SIO, at his or her discretion, provides for a different time frame.

- 1 b. Inquiry Team Members - The Inquiry Team will be chaired by the SIO, and members
2 will include the relevant Line Office Scientific Integrity Officer and an unrelated Line
3 Office Scientific Integrity Officer as well as other Scientific Integrity Committee
4 Points of Contact, as appropriate. Other NOAA employees in the chain of command
5 of the Respondent or with expertise will be appointed by the SIO, as appropriate.
- 6 i. Conflict of Interest - The Inquiry Team members must disclose any actual or
7 potential conflicts of interest to the SIO prior to their appointment. Conflicts of
8 interest will result in the disqualification of the individual from serving on the
9 team. These conflicts include:
- 10 1. personal knowledge of, or involvement in the incidents that resulted in the
11 allegations;
- 12 2. close personal, professional, or financial relationships with either the
13 Complainant or Respondent; and,
- 14 3. other contact, associations, or interests that could compromise the
15 impartiality or appearance of impartiality of the Inquiry Team member.
- 16 c. After consulting with the NOAA General Counsel or his or her designee on procedure
17 appropriate to the specific allegation, the Inquiry Team may collect any evidence it
18 deems necessary to evaluate the merits of an allegation. The Inquiry Team will ensure
19 that the Respondent has adequate opportunity to address the evidence. The Inquiry
20 Team will guard the confidentiality of the proceedings and the SIO will only notify
21 other NOAA employees (such as those in the chain of command of the Respondent)
22 on a need to know basis.
- 23 d. At the time of, or before beginning an inquiry, the SIO must make a good faith effort
24 to notify the Respondent in writing, if the Respondent is known. The Respondent may
25 have the advice of counsel, union representative (if applicable), and/or other advisor,
26 who agrees to be bound by the confidentiality provisions of the Procedural
27 Handbook, during any part of the process following the inquiry, to the extent
28 permitted by law.
- 29 e. If known, the Complainant and Respondent must be given an opportunity to provide
30 written testimony to the Inquiry Team.
- 31 f. After collecting information and assessing the merits of a scientific and research
32 Misconduct allegation, the Inquiry Team will:
- 33 i. Develop and provide to the NOAA General Counsel for legal review a draft
34 inquiry report which must contain the five elements described below in
35 subparagraph (f) (iii).

- 1 ii. Develop the final inquiry report, following NOAA General Counsel review,
2 and provide it to the Complainant (if known) and Respondent, who may
3 provide written exceptions to the findings contained in the final inquiry report
4 within 5 calendar days after receipt.
- 5 iii. Provide the final inquiry report, with exceptions from the Complainant and
6 Respondent, if any, to the DUS/O and appropriate Line Office Assistant
7 Administrator containing:
- 8 1. Description of the allegation
9 2. Summary of process used by the Inquiry Team
10 3. List of research records reviewed
11 4. Summaries of interviews
12 5. Recommendation for one of three actions to be taken by the DUS/O
13 and/or appropriate Line Office Assistant Administrator:
14 a. Dismissal of the allegation;
15 b. Specific action by NOAA to restore scientific integrity; or
16 c. Investigation.
- 17 g. If the Inquiry Team finds evidence of waste, fraud, or abuse, the SIO will refer the
18 evidence to the Department of Commerce Office of Inspector General for further
19 investigation. If the SIO finds evidence of a violation of criminal law, the evidence
20 will be referred to the DUS/O for consideration and possible referral to the Office of
21 Inspector General for investigation and consultation with the Department of Justice.
22 At all times, any employee who believes that he or she has been subject to a
23 prohibited personnel practice for engaging in this process has the right to contact the
24 Office of Inspector General or the U.S. Office of Special Counsel.
- 25
- 26 04. Investigation - The purpose of this stage is to determine whether scientific and research
27 misconduct occurred and to recommend corrective action.
- 28 a. Once the DUS/O determines under Section 4.03 that further evaluation of an
29 allegation is required, the DUS/O will work through the SIO to appoint a DO and an
30 IRPC within 30 days. The DUS/O may retain or delegate Determining Official
31 authority. The appointments will be commensurate with the scope of the allegation.
- 32 b. Upon appointment of an IRPC, the DUS/O and SIO will also propose to appoint an
33 Integrity Review Panel (panel) consisting of members who are chosen based on their
34 experience, availability, and mature judgment. Within 30 calendar days of
35 appointment, the IRPC will propose at least two additional panel members who are
36 U.S. Federal Government employees with the appropriate expertise in the type of

- 1 research in which the alleged misconduct occurred. The IRPC will submit the
2 proposed composition of the panel through the SIO to the DUS/O for approval.
- 3 c. The SIO or his/her designee will provide the IRPC and panel the benefit of expertise
4 and counsel. The IRPC will work with the SIO to ensure that the panel is properly
5 staffed and has the expertise and capacity appropriate to carry out a thorough and
6 authoritative collection and evaluation of the evidence.
- 7 d. The IRPC and proposed panel members must reveal any actual or potential conflicts
8 of interest to the SIO and DUS/O prior to their appointment. Conflicts of interest will
9 result in the disqualification of the individual from serving on the panel. These
10 conflicts include those detailed in Section 4.03(b)(i).
- 11 e. After consulting with the SIO and NOAA General Counsel or his or her designee on
12 procedure appropriate to the specific allegation, the panel may collect any additional
13 information it deems necessary to evaluate the merits of an allegation.
- 14 f. Based upon information found in the inquiry phase, the Integrity Review Panel may
15 broaden the scope of its inquiries beyond the initial allegations. If the panel changes
16 the scope of the investigation, it must notify the Respondent of the new areas being
17 examined and provide the Respondent the opportunity to comment and supply
18 additional information regarding the conduct examined in the expanded investigation.
- 19 g. The panel will conclude the investigation within 120 calendar days of the date it
20 began the investigation; at the request of the panel, the SIO may grant the panel
21 additional time.
- 22 h. The Complainant and Respondent must be given an opportunity to provide written
23 testimony to the panel. The panel may request oral testimony from either the
24 Complainant or the Respondent.
- 25 i. The Respondent may suggest additional avenues of investigation, witnesses, or
26 questions, and the panel may determine at its discretion whether to pursue them. If the
27 panel decides not to pursue a Respondent's suggestion, the panel will state its reasons
28 in the final report.
- 29 j. After completing its investigation, the panel will:
- 30 i. Develop a draft investigation report and provide it to the NOAA General
31 Counsel for legal review.
- 32 ii. Develop the final investigation report, following NOAA General Counsel
33 review, and provide it to the Complainant and Respondent, who may provide
34 written exceptions to the findings of the final investigation report within 10
35 calendar days after receipt.

- 1 iii. Transmit the final investigation report, with exceptions from the Complainant
2 and Respondent, if any, to the DO. The final report will include:
3 1. description of the allegation;
4 2. summary of process used by the Integrity Review Panel;
5 3. list of research records reviewed;
6 4. summaries of interviews;
7 5. a recommendation for the DO to:
8 a. determine scientific and research misconduct has not occurred
9 and the allegation be dismissed; or
10 b. determine scientific and research misconduct has occurred;
11 recommend specific action by NOAA to restore scientific
12 integrity
13 k. If the panel finds that scientific and research misconduct has occurred, the panel will
14 include in its report an assessment of the seriousness of the misconduct and, if
15 possible, a recommended determination as to whether misconduct was isolated or part
16 of a pattern. The report will contain a summary of all relevant evidence and the basis
17 for the recommendations.
18 l. The DO will determine in writing within 30 calendar days of receipt of the final
19 investigation report whether NOAA:
20 i. accepts the investigation report, its findings, and the recommended actions;
21 ii. declines to accept the report, findings, and recommendations, or
22 iii. accepts with modification the report, findings, and recommendations.
23 m. The DO will also specify the appropriate agency actions in response to accepted
24 findings of scientific and research misconduct. If the DO's findings or determinations
25 vary from the findings of the panel, the DO will, as part of his or her written
26 determination, explain in detail the basis for rendering a decision different from the
27 findings of the panel. Alternatively, the DO may return the report to the panel with a
28 request for further fact-finding or analysis.
29 n. Once the DO makes a final decision on the case, the IRPC will provide the findings,
30 report, and recommended actions to the SIO and DUS/O within 10 days. Once the
31 DUS/O has had an opportunity for review, the SIO will notify both the Complainant
32 and Respondent in writing.
33
34 05. Adjudication
35 a. If the DO finds under the standard in Section 2 of this Procedural Handbook that
36 scientific and research misconduct has occurred, the DUS/O will refer the matter to

1 an appropriate manager in the Respondent's reporting structure for action. In
2 consultation with the NOAA General Counsel, Director of WFMO, and the
3 Department of Commerce Assistant General Counsel for Administration, or their
4 designees, the management official will propose disciplinary action, subject to
5 applicable provisions of Chapter 75 of Title 5 of the United States Code; Department
6 Administrative Order 202-751; other relevant laws, regulations, and policies; and
7 collective bargaining agreements, as applicable, taking into consideration the
8 following factors:

- 9 i. The nature of the misconduct;
- 10 ii. The damage to the research record caused by the actions;
- 11 iii. The real or potential damage to the public caused by the actions;
- 12 iv. The damage to NOAA's reputation for quality science;
- 13 v. The cooperation of the responsible party in the investigation;
- 14 vi. Whether the responsible party engaged in retaliation or intimidation of the
15 Complainant or other witnesses;
- 16 vii. The professional experience of the responsible party; and
- 17 viii. Whether the responsible party destroyed or altered evidence.

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- 19 b. If the DO finds evidence of waste, fraud, or abuse, he or she will refer the evidence to
20 the Department of Commerce Office of Inspector General for further investigation. If
21 the DO finds evidence of a violation of criminal law, the evidence will be referred to
22 the Office of Inspector General for investigation and consultation with the
23 Department of Justice. At all times, any employee who believes that he or she has
24 been subject to a prohibited personnel practice for engaging in this process has the
25 right to contact the Office of Inspector General or the U.S. Office of Special Counsel.

26

27 Section 5. Contracts and Financial Assistance.

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- 29 01. Organizations that perform research for NOAA under contract or financial assistance awards
30 must foster an atmosphere conducive to the responsible conduct of sponsored research by
31 safeguarding against and resolving allegations of scientific and research misconduct.
 - 32 a. These organizations have the primary responsibility to prevent, detect, and investigate
33 allegations of scientific and research misconduct and, for this purpose, may rely on
34 their internal policies and procedures, as appropriate, to do so.
 - 35 b. Expenditure of federal funds on an activity that is determined to be invalid or
36 unreliable because of scientific and research misconduct may result in appropriate

1 enforcement action under the award, up to and including award termination and
2 possible suspension or debarment.

3
4 02. Organizations must notify the Grants Officer or Contracting Officer, as appropriate, of any
5 allegation of scientific and research misconduct related to a NOAA contract or financial
6 assistance award, determine if the allegation contains sufficient information to proceed with
7 an investigation, and inform NOAA of results of their investigations.

- 8 a. If an inquiry or investigation will take place, the organization must submit the
9 allegation to the Grants Officer or Contracting Officer, as appropriate, who will notify
10 the SIO and DUS/O of the allegation within 30 days.
- 11 b. Once the organization has investigated the allegation, it will submit its findings to the
12 Grants Officer or Contracting Officer, as appropriate, who will provide the findings to
13 the SIO and DUS/O within 30 days after receipt.
- 14 c. NOAA may accept the organization's findings or proceed with its own investigation.
- 15 d. The SIO and NOAA Grants Officer or Contracting Officer, as appropriate, will
16 consult with the Federal Program Officer (FPO) or the Contracting Officer's
17 Technical Representative (COTR), as appropriate, in reviewing and responding to
18 allegations of scientific and research misconduct in connection with a NOAA
19 financial assistance award or contract. In cases of joint or collaborative federal
20 funding, the federal agencies funding the award(s) will jointly investigate any
21 allegations of scientific and research misconduct.

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23 Section 6. General Rights and Responsibilities.

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25 01. The Complainant has the responsibility to make any allegation in good faith, maintain
26 confidentiality, and cooperate with any resulting inquiry and investigation. The Complainant
27 has the right to be informed of the status of their allegation, and will be notified of significant
28 developments throughout the process. If the Complainant violates confidentiality or
29 otherwise does not cooperate with any resulting inquiry and investigation, the Complainant
30 will forfeit all rights to be informed of the status of their allegation.

31
32 02. No allegation of scientific and research misconduct will be used as the basis for any adverse
33 action taken against a Respondent until those allegations are proven and a finding is issued in
34 accordance with the NAO and these procedures.

03. Recognizing the potential for possible adverse effect on the person or entity against whom an allegation is made, NOAA officials involved will maintain confidentiality during and after the process, consistent with Section 8 and to the extent permitted by law.
04. The Scientific Integrity Officer supports the DUS/O in oversight and implementation of NOAA's process for responding to allegations of scientific and research misconduct. In addition to the responsibilities described in the Procedural Handbook, the SIO will:
- a. Maintain the confidentiality of the proceedings, and monitor the treatment of the Complainant and Respondent, as well as those who participate in the review process;
 - b. Recuse himself or herself in the case of a personal, professional, or financial conflict of interest, in which case the DUS/O, or his or her designee, shall take on the responsibilities of the SIO to oversee the agency's process for responding to an allegation;
 - c. Consistent with Section 4.03(b)(i), determine whether any person involved in handling an allegation of scientific and research misconduct has an unresolved personal, professional, or financial conflict of interest, and take appropriate action, including recusal, to ensure that no person with such a conflict is involved in the scientific and research misconduct proceeding;
 - d. Cooperate with other agency officials to take all reasonable and practical steps to protect or restore the positions and reputations of good faith Complainants, witnesses, and committee members, and counter potential or actual retaliation against them by Respondents or other institutional members.
 - e. Track and work with the DUS/O and NOAA Chief Scientist to report annually all allegations of scientific and research misconduct and their dispositions as provided in Section 10 of NAO 202-735D.
05. The Integrity Review Panel Chair will:
- a. Maintain the confidentiality of the proceedings, and working with the SIO monitor the treatment of the Complainant and Respondent, and those who participate in the review process;
 - b. Cooperate with other agency officials to take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by Respondents or other institutional members;

- 1 c. Keep the SIO, DO and others who need to know, consistent with the confidentiality
2 provision in Section 8 of this Procedural Handbook, apprised of the progress of the
3 review of an allegation of scientific and research misconduct.
4

5 06. Determining Official will:

- 6 a. Receive the investigation report from the IRPC and determine the extent to which
7 NOAA accepts the findings of the investigation and, if scientific and research
8 misconduct is found, propose appropriate corrective actions, if any;
9 b. Ensure the final investigation report, the findings of the DO, and a description of any
10 pending or completed administrative actions are provided to the DUS/O through the
11 SIO.
12

13 07. The Deputy Under Secretary for Operations (DUS/O) will:

- 14 a. Oversee the agency's process for responding to allegations of scientific and research
15 misconduct, and appoint officials involved in the process;
16 b. Receive the Inquiry Team report and determine if an investigation is warranted;
17 c. When an investigation is warranted, work with the SIO to appoint a DO, appropriate
18 IRPC and panel members. The DUS/O may retain or delegate Determining Official
19 authority.
20 d. Should the DO recommend adjudication, the DUS/O will refer the matter to an
21 appropriate manager in the Respondent's reporting structure for action and ensure
22 appropriate action is taken.
23 e. Recuse himself or herself in the case of a personal, professional, or financial conflict
24 of interest, in which case the NOAA Administrator, or his or her designee, shall take
25 on the responsibilities of the DUS/O to oversee the agency's process for responding
26 to an allegation;
27 f. Work with the SIO and NOAA Chief Scientist to annually report all allegations and
28 dispositions of scientific and research misconduct as provided in Section 10 of NAO
29 202-735D; and
30

31 Section 7. Employee Appeals of Disciplinary Actions.
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- 33 01. If disciplinary action is taken against an employee, the employee has appeal rights under
34 DAO 202-771, "Administrative Grievance Procedure," his or her collective bargaining
35 agreement if appropriate, and statutory appeals processes, such as through the Merit System

1 Protection Board, as applicable. An employee's appeal rights will be outlined in the
2 disciplinary decision letter he or she receives.

3
4 Section 8. Confidentiality.

- 5
6 01. Disclosure of the identity of Respondents and Complainants in scientific and research
7 misconduct proceedings is limited, to the extent possible, to those who need to know,
8 consistent with a thorough, competent, objective, and fair scientific and research misconduct
9 proceeding, and as allowed by law.

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11 Section 9. Records Retention.

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13 01. The SIO and DUS/O will work with the DO and the IPRC to ensure that detailed
14 documentation of the initial receipt of the allegation, each phase of the review process, and
15 final disposition is retained for seven years (consistent with National Archives and Records
16 Administration General Records Schedule 1-30) after termination of the case.
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